

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2009-052556

05/13/2011

HONORABLE RUTH H. HILLIARD

CLERK OF THE COURT

D. Galligan

Deputy

IN RE THE MATTER OF
ERIN MCELLOWNEY

ERIN MCELLOWNEY
790 W GREEN LN # 34
BENSON AZ 85602

AND

RICKY LEE JENNINGS

RICKY LEE JENNINGS
6821 W SHERRI JEAN LN
PEORIA AZ 85382

IRIS GARCIA MAES
CHILD PROTECTIVE SERVICES
D & C MATERIALS-CSC
ELECTRONIC RECORD SERVICES
FAMILY SERVICE AGENCY
OFFICE OF PUBLIC DEFENSE
SERVICES-CCC

MINUTE ENTRY

Courtroom 107- Northeast Regional Court Center

Prior to the commencement of this hearing Petitioner Erin McEldowney and Respondent Ricky Lee Jennings are sworn. Respondent's exhibits 17 through 39 and Petitioner's exhibits 40 through 42 are marked for identification.

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11:06 a.m. This is the time set for Continuation of Evidentiary Hearing regarding Petitioner's Petition for Emergency Temporary Orders for Child Custody filed on April 26, 2011. Petitioner/Mother is present on her own behalf. Respondent/Father is present on his own behalf. Best Interest Attorney, Iris Garcia Maes is present telephonically on behalf of the minor child.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

The Court is in receipt of Respondent's Motion to Compel, but in light of the expedited hearing this date no action could be taken by the Court.

Leslie Carrasco is sworn and testifies.

IT IS ORDERED affirming the Court's previous order of May 2, 2011 that Leslie Carrasco shall testify as to her knowledge of this case.

The witness is excused.

Lisa Drummond is sworn and testifies.

The witness is excused.

Danielle Laderoot is sworn and testifies.

The witness is excused.

Ricky Lee Jennings testifies.

Best Interest Attorney, Iris Garcia Maes makes oral statements and recommendations to the Court.

Based on the testimony and evidence presented and for the reasons set forth on the record,

The Court finds that the Emergency Temporary Orders entered on May 2, 2011 shall remain in place. The Court has not been made aware of any orders from the Glendale Police Department regarding contact between Father, step-mother and the minor child. The Court assumes that the Glendale Police Department would have to serve notice on individuals to make them aware of what they are not allowed to do. Therefore,

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IT IS ORDERED affirming the Emergency Temporary Custody Orders previously entered on May 2, 2011.

THE COURT FINDS it appropriate that the Order of Protection issued May 3, 2011 be modified as follows:

1. On a one time basis, Father may attend Alexandria's graduation on May 25, 2011, but neither parent shall approach the other and Mother shall not violate her own Order of Protection by in sighting Father, there shall be no communication of any kind.
2. Father may have supervised parenting time through either Family Services Agency and/or Child Protective Services, provided Alexandria's counselor deems it appropriate.

ISSUED: Modified Order of Protection.

LET THE RECORD FURTHER REFLECT that the parties, if present, receive copies of the aforementioned documents in open court.

The Court finds that it is appropriate for Mother to take Alexandria to her counselor solely for the purpose of determining if it would be therapeutically fine for Alexandria and/or appropriate to have parenting time with her Father. The Court understands that there is an ongoing police investigation and Father's parenting time may need to be supervised. Therefore,

IT IS ORDERED requiring Mother to take Alexandria as quickly as possible to her counselor, Mary Ann Humphreys for the above determination. If the counselor believes supervised parenting time is appropriate and if there is an individual that Child Protective Services agrees upon to supervise Father's parenting time other than Family Services Agency, the Court will allow supervised parenting time every other weekend over the summer for Father.

IT IS FURTHER ORDERED that Father's parenting time with the minor children shall be supervised by a professional agency such as Family Service Agency (602-264-9891) or any agency provided by Child Protective Services. Father shall pay the cost for supervised parenting time subject to reallocation.

IT IS FURTHER ORDERED that Julianne shall not be present during Father's parenting time until further Court order.

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IT IS FURTHER ORDERED that any contact that the Best Interest Attorney has with the police department, Father and Mother shall be brought up to date with respect to the police investigation.

The Court urges that all speed be exercised by Child Protective Services and by the Glendale Police Department to resolve this issue which has been an ongoing extended issue in which the Court previously resolved, made its findings and rulings; and immediately there were allegations presented.

IT IS FURTHER ORDERED that the child shall not be influenced by either of the parties or the parties' families as to visitation with Father.

IT IS FURTHER ORDERED that neither parent shall involve the minor child or disclose to the child the details of this litigation.

The parties are advised that if the Court finds that there was no basis, no substantiation and/or no criminal charges brought against Father, Alexandria time with Mother over the summer may be shorted to allow Father make-up time with the child.

IT IS ORDERED that because Mother would have had Alexandria for the summer anyway, the Court will allow Mother take Alexandria after graduation to Benson Arizona with the understanding that if there is an emergency hearing or a hearing set in this Division, Mother must come back to Phoenix.

IT IS FURTHER ORDERED sealing the proceeding held on this date, not to be opened or transcribed without further order of the Court.

IT IS FURTHER ORDERED sealing Petitioner's exhibits 1 through 7 and Respondent's exhibits 8 through 16 not to be opened until further order of the Court.

There being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of the Court,

IT IS ORDERED releasing all exhibits not offered in evidence to the party causing them to be marked.

ISSUED: Exhibit Release Form (2)

12:10 p.m. Matter concludes.

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All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.

LATER:

With respect to Mother's Petition to Modify Child Custody, Parenting Time and Child Support filed on April 26, 2011,

IT IS ORDERED setting Evidentiary Hearing to the Court regarding Mother's Petition on **July 11, 2011 at 9:00 a.m. (3 hours allotted)** in this Division at:

Maricopa County Superior Court
Northeast Regional Court Center
18380 N. 40th Street
Courtroom 107
Phoenix, Arizona 85032

Pursuant to Rule 77(C)(5), Arizona Rules of Family Law Procedure, each party will be allowed 1/2 of the available time to present all direct, cross, redirect examination and any argument. The parties are expected to complete the hearing in the allotted time, and the time will not be extended absent a Motion granted by the Court and filed no later than 20 days prior to the hearing. Such a Motion shall set forth good cause to extend the time and specifically include a list of each and every witness who will testify, and an estimate of the time and subject matter of the expected testimony of each witness.

IT IS FURTHER ORDERED with regard to discovery and disclosure requirements:

1. Both parties shall exchange updated disclosure statements required by Rule 49, Arizona Rules of Family Law Procedure, including an exchange of all relevant information, documents and exhibits, and a list of all witnesses who will testify and the subject matter of the expected testimony of each witness, no later than 30 days prior to the Hearing.
2. All depositions and discovery contemplated by Rules 51 through 65, Arizona Rules of Family Law Procedure, shall be completed and any motions regarding discovery shall be filed no later than 20 days prior to the Hearing.
3. Counsel and both parties shall personally meet, face to face, at least ten (10) days prior to the Hearing (unless both parties are unrepresented and there has been domestic violence

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between them) to conduct settlement discussions, prepare a Joint Pre-hearing Statement, and discuss the resolution and narrowing of all procedural and substantive issues in this case.

4. The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution, company, business, medical or health care provider or employer possessing any relevant information.

IT IS FURTHER ORDERED that the parties shall file and provide this Division with a copy of a Joint Pre-hearing Statement pursuant to Rule 6.8, Local Rules of Practice--Maricopa County (Family Court Cases), no later than 5 days prior to the hearing, unless both parties are unrepresented and there has been domestic violence between them. If the parties are unrepresented and there has been domestic violence between them, they shall file separate Pre-hearing Statements.

IT IS FURTHER ORDERED that the Pre-hearing Statement shall include the following attachments:

1. If child support, spousal maintenance and/or attorneys' fees are at issue, a current Affidavit of Financial Information completed by each party, together with a written statement as to whether the parties stipulate that the affidavits of both parties may be considered as evidence by the court as if marked as exhibits and entered into evidence pursuant to In Re Marriage of Kells, 182 Ariz. 480, 897 P.2d 1366 (App. 1995).

2. If child support is at issue, a current Parent's Worksheet for Child Support Amount completed by each party pursuant to the Statewide Child Support Guidelines.

3. If there are disputed custody, access or visitation issues, a specific proposal for custody and visitation by each party.

IT IS FURTHER ORDERED that the failure of counsel or any party to appear at the time of hearing, or to timely present the Pre-hearing Statement in proper form, including each and every attachment required, shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 71(A), Arizona Rules of Family Law Procedure and Local Rule 6.2(e), including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

IT IS FURTHER ORDERED that, if the parties have more than 5 exhibits to be marked, arrangements shall be made with the Clerk of this Division at least five (5) days prior to trial to schedule a time to deliver said exhibits to the Clerk. The parties shall present the Clerk with

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their exhibits in consecutive, numerical order; Petitioner's exhibits shall begin with exhibit 1 and Respondent's exhibits shall continue in consecutive, numerical order thereafter. All exhibits must be presented to the Clerk for marking; a space will not be held for an exhibit that is listed on an Exhibit List, but omitted from the set delivered to the Clerk. Duplicate exhibits shall not be presented. The parties shall also provide the Court and the adverse party with a separate copy of all exhibits.

IT IS FURTHER ORDERED that the parties shall indicate in the Pre-hearing Statement which exhibits they have agreed will be admissible at hearing as well as any specific objections that will be made to any exhibit if offered at hearing which is not agreed to be admitted. Reserving all objections to the time of hearing will not be permitted. At the time of hearing, all exhibits that the parties have agreed will be admitted and all exhibits for which no specific objection is stated in the Pre-hearing Statement shall be summarily admitted.

Counsel and the parties are reminded of their obligation to give prompt notice of any settlement to the Court as required by Rule 70, Arizona Rules of Family Law Procedure.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure (ARFLP).

/ s / HONORABLE RUTH H. HILLIARD

JUDGE OF THE SUPERIOR COURT